

MEMORANDUM

March 19, 1970

TO: Boston Redevelopment Authority

FROM: John D. Warner, Director

SUBJECT: SOUTH COVE URBAN RENEWAL PROJECT, MASS. R-92  
Summary: Revised Cooperation Agreement  
Respecting the New Washington Street  
Tunnel

BACKGROUND

On June 20, 1968, the Authority approved a Cooperation Agreement involving the following parties - Massachusetts Bay Transportation Authority, Tufts-New England Medical Center, Salesian Society, Inc. (Don Bosco), City of Boston, acting by and through its Public Facilities Commission, and the Authority respecting the construction of the new Washington Street tunnel by the MBTA and the private development in the vicinity of the tunnel.

As part of the Cooperation Agreement, it was provided that the subsurface easement as well as surface easement for the station entrances to be granted by the Authority to the MBTA would offset in value any interest in the land occupied by the existing tunnel and overpass in the South Cove Area to be granted from the MBTA to the Authority.

At a subsequent Board meeting on October 3, 1968, it was explained that the MBTA requested that other properties to be exchanged between the MBTA and the Authority, specifically air-rights over the Tremont Street tunnel be from MBTA to the Authority and a subsurface easement through Parcel R-5 from the Authority to the MBTA and that a preferable method for exchange would be to have an accounting based on appraisals. If there was a difference in value, the party responsible would pay such difference. This method of proceeding was approved by the Board subject to the approval of the General Counsel.

Upon further examination of this method of exchange, it was found that the question of the transfer of a subsurface easement through Parcel R-5 affects construction of 221(d)(3) housing by the Massachusetts Housing Authority and further study was required before any agreement could be reached with the MBTA respecting such transfer. Further, by separate agreement, the MBTA is now transferring to the Redevelopment Authority title to their land at the Tremont Street tunnel rather than merely granting air-rights over the land.



4.08 a. BRA shall, upon written request by MBTA, from time to time grant to MBTA by appropriate instruments such temporary or permanent underground and/or surface easements or other interests in property in the Project Area (to the extent such property is, at the time of such request, owned by BRA and cleared or otherwise amenable to MBTA's proposed use thereof) as may be reasonably required for the construction of the tunnel and subway entrances (exclusive of land occupied by public streets). The permanent underground easement, permanent surface easement, and temporary construction easement areas necessary for the construction of the tunnel (Washington Street) and the tunnel entrances are shown, by shading, on a plan entitled "Permanent Subsurface Easement and Construction Easement - South Cove Tunnel Project," dated July 29, 1968, revised October 24 and 28 and November 1, 1968, sheet No. 1, attached hereto as Exhibit "J".

MBTA agrees for itself, its successors and assigns, that any easements or other interests in property so granted to MBTA shall be devoted to and only to the uses for which the same shall have been granted, and the use thereof shall not be restricted or affected in any manner upon the basis of race, religion, creed, color or national origin or ancestry; the covenants contained in the foregoing clause of this sentence shall run with the land and shall be contained in substance in any and all instruments granting such easements or other interests.

b. MBTA shall, upon written request by BRA, from time to time grant to BRA by appropriate instruments all interests it may have in property south of the southerly sideline of Harvard Street within the right-of-way marked MBTA existing structure and existing tunnel shown on a plan entitled "Existing MBTA Tunnel and Structure" dated May 16, 1968, and is attached hereto as Exhibit "H", together with any portion of such right-of-way north of said southerly sideline of Harvard Street that the MBTA does not need for mass transit purposes upon completion of said Orange Line. A condition to MBTA's agreement to transfer the property shown in Exhibit "H" is the completion of the new Orange Line (as presently designated by the MBTA). BRA agrees for itself, its successors, and assigns, that the use of any interests in property so granted to BRA shall not be restricted or affected in any manner upon the basis of race, religion, creed, color or national origin or ancestry; the covenants contained in the foregoing clause of this sentence shall run with the land and shall be contained in substance in any and all instruments granting such easements or other interests.

c. Appraisals will be obtained by the BRA and MBTA for the fair market values of the interests in land transferred from MBTA to BRA pursuant to subparagraph (b) above and from BRA to MBTA pursuant to subparagraph (a) above. Upon examination of such appraised values, the parties will agree upon what is fair market value. Such agreed upon values will be subject to approval by HUD. If no agreement is reached, HUD will establish fair market value. Upon approval, or establishment of said value by HUD, the net difference between the respective values will be paid by whichever party has transferred such interests in land with the lower value. ||

An accounting will be made of the net difference between the respective values of the interests in land transferred on January 1, 1969, and January 1, 1973, or at any other times satisfactory to the BRA and MBTA.



Accordingly, to allow the execution of the subway cooperation agreement to proceed, we have eliminated any reference to the Tremont Street tunnel and limited the exchange of property that will take place under the Cooperation Agreement to the properties listed in the original Agreement approved, i.e., the easement for the new Washington Street tunnel and the interest in land under the existing Washington Street line. These changes take place in Section 408 of the Agreement only.

RECOMMENDATION

I recommend that the revised Cooperation Agreement that reflects the above-described changes to the Board Action previously taken on this matter be approved in that it will allow the construction of the new Washington Street tunnel to proceed. The revised Agreement meets with the approval of the General Counsel.

An appropriate vote follows.

VOTED: That the previous vote of the Authority respecting Section 408 of the Cooperation Agreement involving the Massachusetts Bay Transportation Authority, Tufts-New England Medical Center, Salesian Society, Inc., City of Boston, acting by and through its Public Facilities Commission, and the Boston Redevelopment Authority be rescinded and the Director be authorized to execute a Cooperation Agreement, which will include a revised Section 408 substantially in the form of the one attached hereto, that provides for an exchange of the property required for the new tunnel for the property to be given up by the MBTA occupied by the old Washington Street line with the difference in price between these two transfers to be paid by the party responsible.

